

# Senate Study Bill 1231 - Introduced

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON HOGG)

## A BILL FOR

1 An Act establishing the crime of home repair fraud and  
2 providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1.   NEW SECTION.   714.16D   Home repair fraud.

2     1.   For purposes of this section, unless the context  
3 otherwise requires:

4     *a.   "Elderly person"* means a person who is sixty-five years  
5 of age or older.

6     *b.   "Home repair"* means the fixing, replacing, altering,  
7 converting, modernizing, or improving of, or making an  
8 addition to, any real property primarily designed or used as a  
9 residence.

10    (1)   *"Home repair"* includes the construction, installation,  
11 replacement, or improvement of improvements to residential  
12 structures or upon the land adjacent to residential structures,  
13 including but not limited to driveways, swimming pools,  
14 porches, roofs, siding, kitchens, chimneys, chimney liners,  
15 garages, fences, fallout shelters, central air conditioning,  
16 central heating, boilers, furnaces, hot water heaters,  
17 electrical wiring, sewers, plumbing fixtures, storm doors,  
18 storm windows, and awnings.

19    (2)   *"Home repair"* does not include any of the following:

20    (a)   Original construction of a residence.

21    (b)   The sale of goods or materials by a merchant who does  
22 not directly or through a subsidiary perform any work or labor  
23 in connection with the installation or application of the goods  
24 or materials.

25    (c)   The repair, installation, replacement, or connection  
26 of home appliances including but not limited to disposals,  
27 refrigerators, ranges, garage door openers, washing machines,  
28 telephones, television cables, television antennas, or  
29 satellite dishes, when the person replacing, installing,  
30 repairing, or connecting such home appliance is an employee or  
31 agent of the merchant that sold the home appliance.

32    (d)   Landscaping.

33    (e)   The sale, installation, cleaning, or repair of carpets.

34    (f)   Home repair made by a not-for-profit charitable  
35 organization.

1     *c.*   "*Residence*" means a single-family or multiple-family  
2 dwelling, located in this state, occupied or used or intended  
3 to be occupied or used for residential purposes.

4     2. A person commits the offense of home repair fraud if the  
5 person knowingly does any of the following:

6     *a.* Enters into a contract or agreement for home repair and  
7 does any of the following:

8       (1) Misrepresents a material fact relating to the terms  
9 of the contract or agreement or the preexisting or existing  
10 condition of any portion of the property involved.

11      (2) Creates or reinforces an impression relating to the  
12 terms of the contract or agreement that is false and that the  
13 person does not believe to be true.

14      (3) Promises performance under the terms of the contract or  
15 agreement that the person does not intend to perform or that  
16 the person knows will not be performed.

17      (4) Uses or employs any deception, false pretense, or false  
18 promise in order to induce, encourage, or solicit another  
19 person to enter into the contract or agreement.

20      (5) Misrepresents or conceals the person's legal name or the  
21 legal name or address of the person's business.

22     *b.* Damages the property of another person with the intent to  
23 enter into a contract or agreement for home repair.

24     *c.* Misrepresents themselves to be an employee or agent of  
25 any governmental agency or a public utility with the intent to  
26 cause another person to enter into a contract or agreement for  
27 home repair.

28     3. A person commits the offense of aggravated home repair  
29 fraud if any of the following apply:

30     *a.* The person commits home repair fraud against an elderly  
31 person or a person with a physical or mental disability.

32     *b.* The person commits home repair fraud and has previously  
33 been convicted of home repair fraud or aggravated home repair  
34 fraud.

35     4. *a.* A person who commits home repair fraud is guilty of

1 an aggravated misdemeanor.

b. A person who commits aggravated home repair fraud is guilty of a class "D" felony if the contract or agreement price is five thousand dollars or less. A person who commits aggravated home repair fraud is guilty of a class "C" felony if the contract or agreement price is more than five thousand dollars.

### EXPLANATION

9 This bill establishes the criminal offense of home repair  
10 fraud. A person commits home repair fraud if the person  
11 knowingly enters into a contract or agreement for home repair  
12 and engages in certain activities. These activities are  
13 misrepresenting a material fact relating to the terms of  
14 the contract or agreement or the preexisting or existing  
15 condition of any portion of the property involved; creating  
16 or reinforcing an impression relating to the terms of the  
17 contract or agreement that is false and that the person does  
18 not believe to be true; promising performance under the terms  
19 of the contract or agreement that the person does not intend to  
20 perform or that the person knows will not be performed; using  
21 or employing any deception, false pretense, or false promise  
22 in order to induce, encourage, or solicit another person to  
23 enter into the contract or agreement; or misrepresenting or  
24 concealing their legal name or the legal name or address of  
25 their business. A person also commits home repair fraud if  
26 the person knowingly damages the property of another person  
27 with the intent to enter into a contract or agreement for home  
28 repair, or misrepresents themselves to be an employee or agent  
29 of any governmental agency or a public utility with the intent  
30 to cause another person to enter into a contract or agreement  
31 for home repair.

32 A person commits the offense of aggravated home repair fraud  
33 if the person commits home repair fraud against a person 65  
34 years of age or older or a person with a physical or mental  
35 disability, or if the person commits home repair fraud and has

1 previously been convicted of home repair fraud or aggravated  
2 home repair fraud.

3     The bill defines "home repair" as the fixing, replacing,  
4 altering, converting, modernizing, or improving of, or making  
5 an addition to, any real property primarily designed or used  
6 as a residence. "Home repair" includes the construction,  
7 installation, replacement, or improvement of improvements  
8 to residential structures or upon the land adjacent to  
9 residential structures. Various activities are excluded from  
10 the definition of "home repair": original construction of a  
11 residence; the sale of goods or materials by a merchant who  
12 does not directly or through a subsidiary perform any work or  
13 labor in connection with the installation or application of  
14 the goods or materials; the repair, installation, replacement,  
15 or connection of home appliances when the person replacing,  
16 installing, repairing, or connecting the home appliance is an  
17 employee or agent of the merchant that sold the home appliance;  
18 landscaping; sale, installation, cleaning, or repair of  
19 carpets; and home repair made by a not-for-profit charitable  
20 organization. The bill defines "residence" as a single-family  
21 or multiple-family dwelling, located in this state, occupied  
22 or used or intended to be occupied or used for residential  
23 purposes.

24     Home repair fraud is an aggravated misdemeanor. An  
25 aggravated misdemeanor is punishable by confinement for no more  
26 than two years and a fine of at least \$625 but not more than  
27 \$6,250.

28     Aggravated home repair fraud is a class "D" felony if the  
29 contract or agreement price is \$5,000 or less. A class "D"  
30 felony is punishable by confinement for no more than five  
31 years and a fine of at least \$750 but not more than \$7,500.  
32 Aggravated home repair fraud is a class "C" felony if the  
33 contract or agreement price is more than \$5,000. A class "C"  
34 felony is punishable by confinement for no more than 10 years  
35 and a fine of at least \$1,000 but not more than \$10,000.